

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.5406 Projects eligible for assistance; priority list; award of points; annual submission to legislative standing committees; segmenting of projects; equitable distribution of funding; priority list to be effective first day of fiscal year.

Sec. 5406. (1) The department shall annually develop a priority list of projects eligible for assistance under this part. Projects that are not funded during the year that a priority list developed under this section is in effect shall be automatically prioritized on the next annual list using the same criteria, unless the water supplier submits an amendment to its project plan that introduces new information to be used as the basis for prioritization. The priority list shall be based on project plans submitted by water suppliers under section 5405 and the criteria listed in subdivisions (a) through (f). Each project shall be assigned points up to a maximum of 1,000. The point values are maximum values available for each category or subcategory listed in this section and shall only be awarded if the project substantially addresses the problem for which the point award is given. If a project is primarily designed to replace individual wells at private homes, 50% or more of the homes in the affected area shall meet equivalent water quality or infrastructure deficiency criteria listed in subdivisions (a) through (f) in order to receive the maximum available points. If less than 50% of the homes in the affected area can demonstrate deficiencies, 1/2 of the total points available shall be awarded. Points shall be awarded as follows:

(a) A maximum of 450 points may be awarded to a project that addresses drinking water quality as outlined in Act 399, if the project:

(i) Is designed to eliminate an acute violation of a drinking water standard as described in R 325.10401 to R 325.10420 of the Michigan administrative code. A violation of a surface water treatment technique, or if a waterborne disease outbreak has been documented, 250 points shall be awarded for each violation.

(ii) Is designed to eliminate a violation of a drinking water standard other than those outlined in subparagraph (i), 200 points shall be awarded for each violation.

(iii) Is designed to upgrade a facility to maintain compliance with drinking water standards or system capacity requirements, 150 points shall be awarded.

(iv) Is designed to eliminate an exceedance of a secondary maximum contaminant level for aesthetic water quality, 25 points shall be awarded.

(b) A maximum of 350 points may be awarded to a project that addresses infrastructure improvements, as follows:

(i) If source or treatment facilities are upgraded, including the watermain to connect to the distribution system, a maximum of 125 points shall be awarded, if the improvement is:

(A) To meet minimum capacity requirements, 100 points shall be awarded.

(B) For reliability, 75 points shall be awarded.

(C) For other source or treatment facility upgrades not included in subparagraph (i)(A) or (B), 25 points shall be awarded.

(D) To satisfy the conditions of a formal enforcement action, 25 points shall be awarded. Points awarded for formal enforcement actions are in addition to the maximum points allowable in any category.

(E) For source water protection, 50 points shall be awarded.

(ii) If transmission or distribution watermain are upgraded, a maximum of 125 points shall be awarded, if the improvement is:

(A) To meet minimum capacity where flow or residual pressure is less than acceptable, 100 points shall be awarded.

(B) For reliability, including looping or redundant feeds, 75 points shall be awarded.

(C) Other transmission or distribution system upgrades not included in subparagraph (ii)(A) or (B), 25 points shall be awarded.

(D) To satisfy the conditions of a formal enforcement action, 25 points shall be awarded. Points awarded for formal enforcement actions are in addition to the maximum points allowable in any category.

(iii) If water storage facilities or pumping stations are upgraded, a maximum of 125 points shall be awarded, if the improvement is:

(A) To meet minimum capacity where storage or pumping capacity is less than minimum requirements, 100 points shall be awarded.

(B) For reliability, 75 points shall be awarded.

(C) Other storage facility or pumping station upgrades not included in subparagraph (iii)(A) or (B), 25 points shall be awarded.

(D) To satisfy the conditions of a formal enforcement action, 25 points shall be awarded. Points awarded

for formal enforcement actions are in addition to the maximum points allowable in any category.

(c) A maximum of 50 points shall be awarded based on the population served by the water system according to the following table. However, a transient noncommunity water supply as defined in section 2 of Act 399, MCL 325.1002, is eligible for 1/2 of the point value listed in the following table:

Population	Points
>50,000	50
10,001 – 50,000	40
3,301 – 10,000	30
501 – 3,300	20
0 – 500	10

(d) A maximum of 50 points shall be awarded to a community water supply that serves a disadvantaged community.

(e) A maximum of 100 points shall be awarded for projects that include consolidation as follows:

(i) If 1 or more public water supplies are brought into compliance with state drinking water standards as a result of consolidation, 100 points shall be awarded.

(ii) If deficiencies, which are documented in writing by the department, at 1 or more public water supplies are corrected as a result of consolidation, 60 points shall be awarded.

(iii) Other consolidations, not included under subparagraph (i) or (ii), shall be awarded 40 points.

(f) For communities that have completed an approved source water protection program, 100 points shall be awarded.

(g) After scoring, using the criteria in subdivisions (a) through (f), if 2 or more projects have the same score, the following tie-breaker shall be applied:

(i) If the system has fewer than 2 violations of the monitoring, record-keeping, and reporting requirements of Act 399 in the previous 2-year reporting period, or no violations if ownership of the system has changed in the previous 2 years, it shall rank above systems having more violations.

(ii) After applying the tie-breaker in subparagraph (i), if 2 or more projects score exactly the same, a calculation of the cost per population served by the water system shall be made. The affected projects shall be ranked with the highest ratio of cost to population ranked higher.

(2) The priority list shall be submitted annually to the chairpersons of the senate and house of representatives standing committees that primarily consider legislation pertaining to the protection of public health and the environment.

(3) In preparing the priority list, to ensure that a disproportionate share of available funds for a given fiscal year is not committed to a single water supply project, the department may segment a project if either of the following criteria is present:

(a) The cost of the proposed project is more than 30% of the total amount available in the fund during the fiscal year.

(b) The department has approved a water supplier's application for segmenting a project.

(4) Segments of a project that have been segmented under subsection (3) shall be assigned priority points based on the project as identified in the project plan. After funding assistance for the first segment is accepted, the remaining segments will retain first priority for funding assistance on the next 3 fiscal year priority lists. All projects with previously funded segments will be designated with first priority. Ranking order for these projects to receive funding assistance will be subject to the relative ranking of all first segment projects.

(5) In preparing the intended use plan, the department shall make every effort to assure that funding for assistance is equitably distributed among public water supplies of varying sizes.

(6) For purposes of providing assistance, the priority list shall take effect on the first day of each fiscal year.

History: Add. 1997, Act 26, Imd. Eff. June 17, 1997;—Am. 2012, Act 561, Imd. Eff. Jan. 2, 2013.

Popular name: Act 451

Popular name: NREPA